

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

LAWRENCE HARRIS,

Plaintiff,

v.

LAURIE NEWOTH, et al.,

Defendants.

ORDER

Case No. 16-cv-594-jdp

On August 30, 2016, I assessed plaintiff Lawrence Harris an initial partial payment of \$104.06 due by September 21, 2016. Now plaintiff has submitted a motion to use his release account to pay the \$104.06 initial partial filing fee and also to pay litigation costs. (Dkt. #5.)

Pursuant to 28 U.S.C. § 1915(b)(1), prison officials are required to use a prisoner's release account to satisfy an initial partial payment if no other funds are available. *Carter v. Bennett*, 399 F. Supp. 2d 936, 936-37 (W.D. Wis. 2005). Therefore, if sufficient funds do not exist in plaintiff's regular account to pay his initial partial payment, he can use his release account to pay the initial partial payment balance.

However, with the exception of initial partial payments, this court does not have the authority to tell state officials whether, and to what extent, a prisoner should be able to withdraw money from a release account. Therefore, I will deny plaintiff's request to order the use of his release account to pay litigation costs.

ORDER

IT IS ORDERED that:

1. Plaintiff Lawrence Harris's motion to use his release account funds to pay the \$104.06 initial partial filing fee is GRANTED. Plaintiff is to submit a check or money order made payable to the clerk of court in the amount of \$104.06 or advise the court in writing why plaintiff is not able to pay on or before October 7, 2016.

2. Plaintiff's motion to use his release account to pay litigation costs is DENIED.

3. If by October 7, 2016, plaintiff fails to pay the \$104.06 initial partial filing fee or show cause for failure to do so, plaintiff will be held to have withdrawn this action voluntarily and the case will be closed without prejudice to plaintiff filing this case at a later date.

Entered this 16th day of September, 2016.

BY THE COURT:

/s/
PETER OPPENEER
Magistrate Judge